



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

VALETNOIR INC - A NEW YORK CORPORATION
1140 BROADWAY
SUITE 903
NEW YORK, NY 10001

COPY MAILED

NOV 08 2005

OFFICE OF PETITIONS

In re Application of Nassef :
Application No. 10/711,106 : Decision on Petition
Filing Date: August 24, 2004 :
For: Method and Apparatus for :
Permitting the Self-Service ... :

This is a decision on the petition under 37 CFR 1.137(a), filed August 15, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Facts:

A Notice to File Corrected Papers was mailed on September 30, 2004.

The Notice required the submission of a substitute specification complying with 37 CFR 1.52, 1.121(b)(3) and 1.125. The Notice specifically stated the line spacing on the specification, claims, and abstract was not 1½ or double-spaced.

The Notice also required payment of \$36 for the additional claims beyond 20.

The address of record is the address associated with customer number 43836.

Petitioner's Office relocated and the Notice was not received.

Since a reply to the Notice was not filed, the application became abandoned on December 31, 2004.

On an unknown date, petitioner filed a request to change the customer number. Petitioner states it was not processed in a timely manner.

Petitioner states a power of attorney has been filed on two different occasions. A copy of the power of attorney was not submitted with the petition. Petitioner should submit a copy of the power of attorney with any request for reconsideration or petition under 37 CFR 1.137(b).

A Notice of Abandonment was mailed on July 6, 2005.

Analysis:

A grantable petition under 37 CFR 1.137(a) must be accompanied by:

- (1) the required reply,
- (2) the petition fee,
- (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and
- (4) a terminal disclaimer and fee *if* the application was filed on or before June 8, 1995 or *if* the application is a design application.

The instant petition lacks items (1) and (3).

As to item (1), the Notice required the submission of a corrected specification, claims, and abstract. A new specification has not been filed. The replacement claims and abstract fail to comply with 37 CFR 1.52, 1.121(b)(3) and 1.125. For example, the line spacing on the claims and abstract is greater than double-spaced.

Petitioner has failed to pay the fee for the extra claims as required by the Notice. The fee for extra claims was increased from \$9 to \$25 on December 8, 2004. Therefore, petitioner must either pay \$25 for each of the 4 extra claims or file an amendment canceling claims.

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Commissioner that the delay was unavoidable within the meaning of 37 CFR 1.137(a). Petitioner has failed to state petitioner took reasonable and prudent steps to ensure the Office always had a correct address on file. Petitioner has failed to establish a proper request to change the address was filed prior to September 30, 2004.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply (still must be submitted), the required petition fee (\$750 for a small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

cc: George J. Nassef Jr.
1140 Broadway, Suite 903
New York, NY 10001